1947. **File No.** O Field Firing etc / 47

K

Legal **DEPARTMENT**

A. **BRANCH**

Subject:— Opinions under Manoeuvres

Field Firing and Artillery Practice

Act 1938.

3/E

File No. O Field Firing etc /47

Std. Sectt. Slip 24 B o.

357 – A

C O N T E N T S.

Legal Department File No. 0 Field ~~Field~~ Firing etc./47.

S.No.	Compilation No.	Subject	Pages.
		Opinions under the Manoeuvres, Field Firing and Artillery Practice Act, 1938.	
	O.No.202 23.5.1947	Sections 8 and 9 (1) (3) . ... Whether there is any objection to issuing simultaneously the notification under section 9(1) and the notice under section 9(3).... " Whether demolition of explosives would be covered by the defination of field firing."	1 - 2.

5-Cs.
H.V.V.
9/5.

2815

Office of theR.L.A.

The first question for the consideration of the R.L.A. is whether there is any objection to issuing simultaneously the Notification under section 9(1) and the notice under section 9(3) of the Manoeuvres, Field Firing and Artillery Practice Act, 1938.

Reading together the provisions of the sub-sections of section 9, of the Field Firing and Artillery Practice Act, 1938 there would appear no objection to the simultaneous issue of the notification under sub-section (1) and the notice under sub-section (3). The view taken by the Secretary, R.D. is correct.

2. The second question for consideration is whether demolition of explosives would be covered by the definition of field firing. The intended demolition of explosives seems to have no connection with field firing which, as the definition in section 2(a) suggests is a part of military practice. The ammunition is sought to be exploded because it is in a dangerous condition and in order to avoid risk to the Depot. It is not known whether the explosion is to be done by "firing" which in this context means firing through a gun etc. It would on the whole be difficult to hold that the proposed explosion is included in field firing.

3. The third question for consideration is whether the consent of the Khatedars would in the absence of Notification under sub-section (2) of section 9 regularise the position. In his letter at p.19 ante the Collector has stated:-

> "It will be most inconvenient to wait for two months prescribed by the Manoeuvres, Field Firing and Artillery Practice Act,1938 and it is requested that immediate notification as required under section 9 of the said Act may please be issued in respect of the marginally noted ranges of which schedules prescribing the areas are enclosed. I have further to enquire whether these areas can be allowed to be used even before two months period by Military if owners' consent is taken. As these areas are in use for a number of years, it is presumed that the owners will have no objection to their being used in future."

Secretary, R.D. in his note at p.29 observes:-

> As the military do not consider it desirable to wait for the prescribed period of two months

months, the Collector may be asked to get the consent of the Khatedars concerned."

Under sub-section (3) of section 9, it is ~~xxxxxx~~ imperative that no notification under sub-section (2) can be published before the expiry of two months from the date of the first publication of the notice. Further the consent of the Khatedars would not dispense with the issue of a notification under sub-section (2) which is intended to be a warning to the general public and not merely the Khatedars. The fact that these areas are in use for a number of years is immaterial since the use thereof for the purpose has already legally ceased. It would not, therefore, be feasible to follow the co rse suggested by the Secretary, R.D. if it is Government's intention to seek the benefit of the Manoeuvres, Field Firing and Artillery Practice Act, 1938 including its special provisions regarding compensation.

4. Any private arrangement with the owners, apart from the Act, will still leave unaffected Government's liability to other persons who may suffer damage by reason ~~of~~ of the explosion.

Sd/- P.N.Lad.

Remembrancer of Legal Affairs.

H.M.R.D. No.202, dated the 23rd May 1947.

4-Cs.
M.V.V./9.5

SVA 24/5 24/5